

**Notice of Allowability**

Application No.

10/693,041

Examiner

Sunil Singh

Applicant(s)

CALL

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendmen filed 4/29/05 and examiner's amendment 7/22/05.
2. ☒ The allowed claim(s) is/are 18-25 and 32-39.
3. ☒ The drawings filed on 09 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 5/3/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

SUNIL SINGH  
PRIMARY PATENT EXAMINER



### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

**In the claims:**

Claims 40-77 have been canceled.

### **Reason for claims being canceled**

2. The application has been amended as follows: Newly submitted claims 40-77 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: See restriction requirement below.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 18-25, 32-39 are, drawn to a wheelchair cushion, classified in class 5, subclass 653.
- II. Claims 40-55, drawn to pelvic captivation structure, classified in class 5, subclass 739.
- III. Claims 56-70, drawn to temperature control module, classified in class 5, subclass 284.
- IV. Claims 71-77, drawn to seat cushion, classified in class 5, subclass 654.

3. Inventions Group I and Groups II-IV are related as combination and subcombinations. Inventions in this relationship are distinct if it can be shown that (1)

Art Unit: 3673

the combination as claimed does not require the particulars of the subcombinations as claimed for patentability, and (2) that the subcombinations have utility by themselves or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombinations as claimed because the combination does not require the u-shaped base member (see claim 18 as evidence that such base member is not required for patentability) and/or a cushion element formed from a material that insulates the thermal transfer element and cushion from the user and said cushion element being positioned beneath the thermal transfer element. The subcombinations have separate utility such as a back support, ice or warming pack, back support having an ice or warming pack respectively.

4. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40-77 have been canceled as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3673

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sunil Singh  
Primary Examiner  
Art Unit 3673



SS

SS

7/22/05